

opposition” to gambling, “opposition to economic activity” and “[o]pposition to Indian gaming” were three such circumstances. Another was opposition based on competition:

Business abhors competition. Direct competition spawns fear. No Indian tribe welcomes additional competition. Since tribal opposition to gaming on others’ Indian lands is futile, fear of competition will only be articulated in off-reservation land acquisitions. Even when the fears are groundless, the opposition can be intense. The actual impact of competition is a factor in reaching a determination to the extent that it is unfair, or a burden imposed predominantly on a single Indian tribe.

In the memo, Hartman also addressed the type of evidence on which he based his analysis of “detriment”:

Detriment is determined from a factual analysis of evidence, not from opinion, political pressure, economic interest, or simple disagreement. In a political setting where real, imagined, economic, and moral impacts are focused in letters of opposition and pressure from elected officials, it is important to focus on an accurate analysis of facts. That is precisely what IGRA addresses in Section 20 – a determination that gaming off-reservation would not be detrimental to the surrounding community. It does not address political pressure except to require consultation with appropriate government officials to discover relevant facts for making a determination on detriment.

Hartman noted that “Indian economic development is not subject to local control or plebiscite,” and warned of “[t]he danger to Indian sovereignty, when Indian economic development is limited by local opinion or government Action.”

## **G. The Department of the Interior Decides to Deny the Hudson Application**

### **1. Internal Debates Over the Basis of Denial: IGRA Section 20 or IRA and Part 151 Regulations**

While IGMS staff, in particular Hartman and Skibine, were reviewing the additional materials received after Feb. 8, internal meetings on the Hudson matter continued intermittently. Skibine, Hartman and Sibbison usually attended; Duffy was occasionally present, as were representatives from the Solicitor’s Office – including Meisner and sometimes Woodward – and